UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

THE NEW YORK TIMES COMPANY, Plaintiff, v. MICROSOFT CORPORATION, OPENAI, INC., OPENAI LP, OPENAI GP, LLC, OPENAI, LLC, OPENAI OPCO LLC, OPENAI GLOBAL LLC, OAI CORPORATION, LLC, and OPENAI HOLDINGS, LLC, Defendants.	Civil Action No. 1:23-cv-11195 (SHS) (OTW)
Daily News, LP; Chicago Tribune Company, LLC; Orlando Sentinel Communications Company, LLC; Sun-Sentinel Company, LLC; San Jose Mercury News, LLC; DP Media Network, LLC; ORB Publishing, LLC; and Northwest Publications, LLC, Plaintiffs, v. MICROSOFT CORPORATION, et al., Defendants.	Civil Action No. 1:24-cv-3285 (SHS) (OTW)

<u>DECLARATION OF JENNIFER B. MAISEL</u>

I, Jennifer B. Maisel, pursuant to 28 U.S.C. § 1746, declare as follows:

1.   I am an attorney at Rothwell, Figg, Ernst & Manbeck, P.C., which represents Plaintiffs The New York Times Company ("The Times") and Daily News, LP et al. ("Daily News") (collectively, the "News Plaintiffs") in this case. I submit this declaration on behalf of the News Plaintiffs in support of the News Plaintiffs' Letter Motion regarding OpenAI's preservation of

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output log data. I have personal knowledge of the facts set forth in this declaration. If called as a witness, I could and would competently testify as to these facts under oath.

2.   Enclosed as Exhibit 1 is a true and correct copy of a January 23, 2024, letter on behalf of The Times from Elisha Barron to Joseph C. Gratz, counsel for OpenAI.

3.   Enclosed as Exhibit 2 is a true and correct copy of a February 29, 2024, letter on behalf of OpenAI from Joseph C. Gratz to counsel for The Times.

4.   Enclosed as Exhibit 3 is a true and correct copy of a March 5, 2024, email on behalf of The Times from Ian B. Crosby to counsel for OpenAI.

5.   Enclosed as Exhibit 4 is a true and correct excerpt of the Daily News Plaintiffs' First Set of Requests for Production to OpenAI, including Request No. 45.

6.   Enclosed as Exhibit 5 is a true and correct excerpt of The Times's Second Set of Requests for Production to OpenAI, including Request No. 45.

7.   Enclosed as Exhibit 6 is a true and correct copy of the Daily News Plaintiffs' Request for Inspection to OpenAI.

8.   Enclosed as Exhibit 7 is a true and correct copy of The Times's Request for Inspection to OpenAI.

9.   Enclosed as Exhibit 8 is a true and correct excerpt of OpenAI's Responses and Objections to the Daily News Plaintiffs' First Set of Requests for Production to OpenAI, including Request No. 45.

10.   Enclosed as Exhibit 9 is a true and correct excerpt of OpenAI's Responses and Objections to The Times's Second Set of Requests for Production to OpenAI, including Request No. 45.

11.   Enclosed as Exhibit 10 is a true and correct copy of OpenAI's Responses and Objections to the Daily News Plaintiffs' Request for Inspection to OpenAI.

12.   Enclosed as Exhibit 11 is a true and correct copy of OpenAI's Responses and Objections to The Times's Request for Inspection to OpenAI.

13.   Enclosed as Exhibit 12 is a true and correct copy of a November 15, 2024, letter on behalf of OpenAI from Carolyn Homer to Jennifer Maisel, counsel for Daily News Plaintiffs.

14.   Enclosed as Exhibit 13 is a true and correct copy of a December 10, 2024, letter on behalf of News Plaintiffs from Jennifer Maisel to Carolyn Homer, counsel for OpenAI.

15.   Enclosed as Exhibit 14 is a true and correct copy of a January 9, 2025, email chain between counsel for News Plaintiffs and counsel for OpenAI.

16.   News Plaintiffs are pursuing a Rule 30(b)(6) custodial deposition with OpenAI on, *inter alia*, topics related to OpenAI's output logs. On a meet and confer on January 10, OpenAI indicated that the output log related topics were a "merits" issue and that it was inclined not to put up any witness to speak on custodial issues relating to its output logs.

17.   I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 13th day of January, 2025.

/s/ Jennifer Maisel
Jennifer B. Maisel